

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

ORDER

Currently pending before the court is defendants' Motion to Substitute and Enlarge Time to File Answer (Doc. # 32) and defendants' Second Motion for Extension of Time to File Answer (Doc. # 33).

On January 28, 2016, the Does filed their Complaint against the United States and Helen Wong, in her official capacity as legal counsel for the Federal Trade Commission. On September 26, 2016, the Court issued an Order granting in part and denying in part, the Government's Motion to Dismiss. The Court allowed plaintiffs an opportunity to file an Amended Complaint to more clearly state their claim for a violation of the Privacy Act. However, the Court cautioned plaintiffs to be mindful that the Privacy Act claims may not be asserted against individual agency employees. On October 21, 2016, plaintiffs filed their Amended Complaint, but continued to name the same party defendants. The Government has filed a Motion to Substitute, stating that because the Privacy Act does not authorize claims against individual defendants, the remedy is to dismiss the individual defendants and substitute the agency as the real party in interest.

Chichakli v. Kerry, No. 15-1152(CKK), 2016 WL 4435178, *3 (D.D.C. Aug. 19,

2016)(“plaintiff simply cannot bring Privacy Act claims against a government official or employee in his individual capacity”); Earle v. Holder, 815 F.Supp.2d 176, 180 (D.D.C. 2011) aff'd, 2012 WL 1450574 (D.C.Cir. Apr. 20, 2012)(dismissing complaint against the individual officials and substituting the Department of Justice as the proper defendant). Accordingly, the Government requests that the Court substitute the Federal Trade Commission as the sole party defendant. The Government also requests an extension of time until November 22, 2016 in which to answer or otherwise respond to the Amended Complaint.

Accordingly, for good cause shown and with no opposition indicated, the Court hereby **GRANTS** the Motion to Substitute (Doc. # 32) and **GRANTS** the Second Motion for Extension of Time (Doc. # 33). The Federal Trade Commission is hereby substituted as the sole party defendant and the FTC is hereby given until **November 22, 2016** in which to answer or otherwise respond to plaintiffs’ Amended Complaint.

Date: November 22, 2016
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge